

BEFORE THE BOARD OF BARBER EXAMINERS

STATE OF IDAHO

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OCCUPATIONAL LICENSING

In the Matter of the Licenses of:)
JOSEPH LOTT,) Case No. BAR-B4-02B-04-3
License No. B-2455, and)
JOE'S BARBER SHOP,) **FINDINGS OF FACT, CONCLUSIONS**
License No. BS-1399,) **OF LAW, AND RECOMMENDED**
Respondent.) **ORDER**

BAR\Lott\P4191lse

Having reviewed the Complaint and other documents in this matter, the Hearing Officer hereby enters the following Findings of Fact, Conclusions of Law, and Recommended Order:

FINDINGS OF FACT

1. Joseph Lott (hereinafter "Respondent") is licensed by the Idaho State Board of Barber Examiners (hereinafter "Board") under License No. B-2455 to engage in the practice of barbering in the State of Idaho and under License No. BS-1399 to operate a barber establishment in the State of Idaho.

2. On June 4, 2004, a formal administrative Complaint was filed in this matter with the Board. Said Complaint is expressly incorporated herein and made a part hereof.

3. Copies of the Complaint, along with the Notification of Procedural Rights, were sent to Respondent on June 15, 2004, by means of the United States Mail, postage prepaid, both by certified mail, return receipt requested, and by regular mail. The mailings were addressed to Respondent at his most recent home address on file with the Board, as follows:

Joseph Lott
Joe's Barber Shop
106 Madison
Caldwell, ID 83605

4. The certified mail mailings were returned to the sending office with the notation "Unclaimed, Return to Sender," and the regular mailings were returned with the notation "Moved, Left No Address, Unable to Forward, Return to Sender."

5. The Notification of Procedural Rights informed Respondent that, under statutes and rules applicable to such proceedings before the Board, Respondent needed to file a formal Answer to the Complaint within twenty-one (21) days of service of the Complaint and that failure to timely file an Answer to the Complaint or otherwise defend against the action would constitute a default and would be sufficient grounds for proceeding administratively against Respondent's license without the necessity of conducting a hearing.

6. On July 15, 2004, a Notice of Proposed Default Order and Default Order, along with another copy of the Complaint and Notification of Procedural Rights, were sent to Respondent by means of the United States Mail, postage prepaid, both by certified mail, return receipt requested, and by regular mail, at the following address:

Joseph Lott
Joe's Barber Shop
106 Madison
Caldwell, ID 83605

7. Respondent failed to contest entry of the proposed Default Order within seven (7) days of service of the Notice of Proposed Default Order.

8. Concurrent herewith, a Default Order was entered against Respondent. Therefore, the allegations contained in the Complaint on file in this matter are admitted as true without the necessity of conducting a hearing.

9. As detailed in the incorporated Complaint, Respondent, while a licensed barber and owner of a licensed barber establishment, did do the following:

a. Failed to meet the sanitary and health requirements for barbers and barber establishments,

- b. Failed to conspicuously display a valid classification card, and
- c. Failed to improve a "C" classification within thirty (30) days.

CONCLUSIONS OF LAW

1. As a licensed barber and owner of a licensed barber establishment in the State of Idaho, Respondent is subject to the jurisdiction of the Board and to the provisions of title 54, chapter 5, Idaho Code.

2. The Complaint was sent to Respondent at the address on file with the Board. Respondent was duly and lawfully given notice of proceedings against his licenses pursuant to the provisions of IDAPA 04.11.01.055.

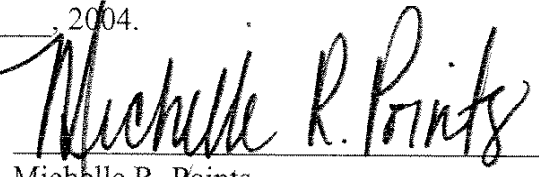
3. Respondent's failure to plead or otherwise defend in this action authorizes the Board, pursuant to Idaho Code § 67-5242(4) and IDAPA 04.11.01.700, to enter an Order of Default which is as lawful as if all the allegations in the Complaint were proved or admitted at a hearing.

4. Respondent's acts as detailed in the incorporated Complaint constitute violations of Idaho Code § 54-516(3) and (8) and Board Rules (IDAPA 24.02.01) 550.02, 550.03, 550.04, 550.10, 550.11, 550.12 and 550.13, thereby authorizing the Board to impose sanctions against Respondent.

ORDER

Based upon the foregoing, it is the recommendation of the Hearing Officer that the Board take such action as it deems appropriate consistent with the Findings of Fact and Conclusions of Law stated above.

DATED this 23rd day of July, 2004.



Michelle R. Points
Hearing Officer

NOTICE OF DUE PROCESS RIGHTS

This is a recommended order of the Hearing Officer. It will not become final without action of the Board. Any party may file a petition for reconsideration of this recommended order with the Hearing Officer issuing the order within fourteen (14) days of the service date of this order. The Hearing Officer issuing this recommended order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. *See* Idaho Code § 67-5243(3).

Within twenty-one (21) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of this recommended order and file briefs in support of the party's position on any issue in the proceeding.

Written briefs in support of or taking exceptions to the recommended order shall be filed with the Board. Opposing parties shall have twenty-one (21) days to respond. The Board may schedule oral argument in the matter before issuing a final order. The Board will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties and for good cause shown. The Board may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of July, 2004, I caused to be served a true and correct copy of the foregoing by the following method to:

Joseph Lott
Joe's Barber Shop
106 Madison
Caldwell, ID 83605

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Kenneth F. Stringfield
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail



Michelle R. Points
Hearing Officer